

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9455 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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VIJAY MARUTI MARATHA

Versus

STATE OF GUJARAT AND OTHERS.

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Appearance:

MS SUBHADRA G PATEL for Petitioner  
MR SS PATEL ASSTT. GOVERNMENT PLEADER  
for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 10/08/1999

ORAL JUDGEMENT

Heard the learned advocate for the respective parties.

2. The petitioner challenges the order of preventive detention dt. 2nd October, 1998 made by the Commissioner of Police, Ahmedabad City under the powers conferred upon

him under Sub-section (1) of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as the "Act").

2. The petitioner is alleged to be a bootlegger within the meaning of Section 2(b) of the Act and his activities are found to be prejudicial to the maintenance of public order. Two offences punishable under Bombay Prohibition Act have been registered against the petitioner. In each of the offences, a huge quantity of foreign liquor was recovered from the possession of the petitioner. Besides, two individuals have given the statements in respect of the nefarious activities of the petitioner and its adverse effect on the public order. The witnesses have given their statements in respect of particular incidents of 28th August, 1998 and 2nd September, 1998 and have personally been verified by the detaining authority on 2nd October, 1998.

3. The order of detention is challenged on the grounds; viz. (a) the reports of the Chemical Analyser in respect of materials seized from the petitioner have not been furnished to the petitioner, nor have they been considered by the detaining authority; and (b) credibility of the witnesses and the genuineness of their statements have not been verified by the detaining authority. The subjective satisfaction recorded by the detaining authority is, therefore, vitiated.

4. It appears that the materials seized from the possession of the petitioner in each of the above referred cases were the bottled liquor which were sealed & labelled and imported from the other States. The question of sending samples of these materials for analysis to the Chemical Analyser would not arise. Besides, the learned Assistant Government Pleader Mr. Patel has also, upon instructions, stated that the sample of such bottled liquor is not required to be sent for Chemical examination, nor have they been sent for such examination in the present case. In that view of the matter, the question of considering the reports of the Chemical Analyser and of furnishing the same to the petitioner would not arise. In respect of the statements given by the witnesses, it is not disputed that the said statements have been verified by the detaining authority personally after summoning the witnesses before him. Further in the counter affidavit made by the detaining authority, he has categorically stated that he had carefully examined and considered all the documentary evidence and had also personally verified the genuineness and correctness of the statements made by the witnesses.

Thus, the detaining authority, having been satisfied about the credibility of the witnesses and the statements given by them, the subjective satisfaction cannot be invalidated. No other ground is urged before me.

5. The petition is dismissed. Rule is discharged.

Date: 10/8/1999.

(ccshah)